

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21828 of 2015

and

M.P.Nos.1 & 2 of 2015

R.Leelavathy

[Petitioner]

Vs

1 Chennai Metropolitan
Development Authority
Rep. by its Member Secretary
No.1 Gandhi Irwin Road Egmore
Chennai-8.

2 Chennai Metropolitan
Development Authority
Rep. by its Chief Executive Officer
No.1 Gandhi Irwin Road
Egmore Chennai-8.

[Respondents]

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent and quash the impugned order dated 30.6.2015 under Reference Letter No.FGM/ 3314/13 and directing the respondents to allot the Shop for an extent of 300 sq.ft. in Koyambedu Food Grain Complex in the category of Non George Town Traders Type I in Koyambedu Wholesale Market Complex Koyambedu Chennai-107 to the petitioner.

For Petitioner :: Mr.M.Raja Sekhar

For Respondents :: Mr.P.Tamizhmani

ORDER

This writ petition has been filed by R.Leelavathy challenging the impugned order dated 30.6.2015 passed by the second respondent-Chief Executive Officer, Chennai Metropolitan Development Authority, in and by which the the shop allotted to the petitioner has been cancelled.

2. Learned counsel for the petitioner, assailing the impugned order, submitted that the petitioner applied for allotment of shop to an extent of 300 sq.ft., in Koyambedu Food Grain Complex through her application No.990 dated 27.10.2003 in the category of Non George Town Traders Class-I by depositing 10% of the margin money of Rs.65,300/- with registration fee of Rs.1,000/-. The first respondent, pursuant to her application, allotted a shop to the petitioner at the rate of Rs.7259/- per sq.ft., by fixing a total sale consideration of Rs.26,64,053/- on 12.7.2013, however, the exact shop number was not mentioned in the allotment order since the construction of shop was in progress at the time of allotment in June, 2014. The first respondent has also given two options with regard to the mode of payment to the allottees, namely, either to avail the financial assistance, after entering into a tripartite agreement, with Canara Bank, Park Town Branch or to make the lumpsum payment directly to the first respondent. The grievance of the petitioner is that even though she had deposited a sum of Rs.25,01,658/- by way of various demand drafts on various occasions, when she has to pay only a marginal amount of Rs.1,62,395/-, in spite of the amount payable in second, third, fourth & fifth installments has not been mentioned in the communication dated 12.7.2013, cancellation of allotment of shop in respect of the petitioner is illegal.

3. Further, according to the learned counsel for the petitioner, as per clause (e) of the terms and conditions of allotment of shops in Food Grains Market at Koyambedu, the balance 50% of the shop cost will be collected from the date of handing over the shop in 20 quarterly instalments with 15% interest per annum and since the handing over of the shop till date has not taken place, 50% of the shop cost has been rightly not paid. However, the learned counsel for the petitioner has given an undertaking that the petitioner will clear the entire amount within one week from the date of receipt of a copy of this order along with interest and penal interest that is to be quantified by the 2nd respondent.

4. Mr.P.Tamizhmani, learned counsel for the respondents also fairly submitted that on receipt of a copy of this order, the second respondent will quantify the applicable penal interest and that the petitioner should be directed to clear the entire balance amount within one week from the date of receipt of a copy of this order.

5. In the present case, considering the fact that the petitioner had paid almost a sum of Rs.25,01,658/- and has to pay only a marginal amount of Rs.1,62,395/- in addition to interest and penal interest to be quantified by the second respondent and that the order of allotment clearly shows that if the allottee prefers to make lumpsum payment directly to CMDA, the same should be paid by demand draft drawn in favour of CEO, CMDA after the payment of 10% margin money paid in favour of CEO, CMDA i.e., balance of 50% after adjusting ID already paid with interest calculated upto 3/2013 in

the first installment and the remaining amount in four installments, I am of the view that the petitioner has not committed any default, as the order of allotment dated 12.7.2013 does not speak about any specific date before which the petitioner has to make the further installments and the impugned order has to go.

4. Accordingly, the writ petition is allowed and the impugned order dated 30.06.2015 is set aside and by recording the statement of the learned counsel for the petitioner that the petitioner will clear the balance amount of Rs.1,62,395/- along with interest and penal interest that is to be quantified by the second respondent, a direction is issued to the petitioner to pay the balance amount of Rs.1,62,395/- within a period of one week from the date of receipt of a copy of this order and the respondents are directed to quantify the penal interest for the outstanding amount payable by the petitioner in respect of the shop already allotted to the petitioner and on such quantification, the petitioner is further directed to pay the same within a period of two weeks therefrom and till such clearance, the respondents are directed to keep one shop vacant for the petitioner. Needless to mention that if the petitioner fails to make the payment within the time stipulated in this order, the impugned order will stand revived. No costs. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore Chennai 600 008

2. The Chief Executive Officer
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore Chennai 600 008

1 cc to Mr.M. Rajasekhar, Advocate, Sr. 10269

W.P.No.21828 of 2015

RJ (CO)

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